Supreme Court, U. S.
FILED
MAR 28 1980
ROBERT, JR., CLERK

APPENDIX

In the Supreme Court of the United States

OCTOBER TERM, 1979

No. 78-1841

JULIUS T. CUYLER, MILTON SHAPP,
Petitioners

v.

JOHN ADAMS
Respondent

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

Petition for Certiorari Filed June 9, 1979
Certiorari Granted February 19, 1980

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DOCKET ENTRIES—UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Dist. Office: 313/2

Docket: Yr. '77; Number 2075.

Filing Date: Mo. 06, Day 14, Year '77.

J 3; N/S 550

Judge Number: JM 1336

Plaintiffs

ADAMS, JOHN and all others similarly situated

vs.

Defendants

CUYLER, JULIUS T., Superintendent, State Correctional Institution; SUSTED, THOMAS J., individually and in his official capacity as Prosecutor of Camden County; BYRNE, BREDEN D., individually and in his official capacity of Governor of the State of New Jersey; SHAPP, MILTON, individually and in his official capacity of Governor of the Commonwealth of Pennsylvania; DOE, JOHN, individually and in his official capacity as Detective of Camden County; ROE, RICHARD, individually in his official capacity as Detective of Camden County

Cause: Civil Rights

Attorneys

For Plff: P.P. No. F-6598, P. O. Box 244, Graterford, Pa. 19426

For Deft: (4) Maria P. Vickers, Asst. Att'y Gen. Robert P. Kane, Attorney General, 206 State Office Bldg., Phila., Pa. 19130, *For: Shapp and Cuyler.*

(10) James D. Crawford, Esquire, 1719 Packard Bldg., Phila., Pa. 19102.

Date Nr. Proceedings

1977

Jun 14, Relator's motion for leave to proceed in forma pauperis and affidavit in support thereof, filed.

Jun 14 Plff's memorandum of law and affidavit in support of plff's request for a temporary restraining Order, filed.

Jun 14 Referred to Hon. Jos. McGlynn, J.

Jun 22 ORDER dated 6/21/77 that leave to proceed in forma pauperis is GRANTED, that the complaint be docketed and copies served on the defts' without prepayment of costs, and that upon the receipt of a copy of the complaint, the defts' are directed to file answers or otherwise plead within 20 days, filed. JM

6/23/77 entered & copies mailed.

Jun 22 Complaint, filed.

Jun 22 SUMMONS EXIT.

Sep 15 Summons returned, "on 8/24/77 served Office of the Governer of New Jersey, on 8/25/77 served Cuyler, on 8/29/77 served Thomas Shusted, as to the defts' John Doe, Richard Roe-unable to locate & on 8/29/77 served Shapp", filed.

Sep 15 ANSWER of defts' Shapp and Cuyler to plff's complaint, filed CASE LISTED FOR TRIAL.

Oct 26 MEMORANDUM & ORDER, McGlynn, J., that the complaint is "DISMISSED" for failure to state a claim upon which relief can be granted, filed. JM

10/27/77 entered & copies mailed.

Nov 16 Plff's petition for leave to appeal in forma pauperis and appointment of counsel, memorandum of law, affidavit in support of motion & memorandum, filed (notice of appeal attached).

Dec 9 ORDER dated 12/8/77 that plff. petition for leave to appeal in forma pauperis is GRANTED, filed. JM

12/12/77 entered & copies mailed.

Dec 9 Plff's notice of appeal received on 11/16/77 at 11:20 A.M., filed.

12/12/77 copies to: Vickers, U.S.C.A.

Dec 9 Copy of clerk's notice to U.S.C.A., filed.

Dec 29 Original record transmitted to U.S.C.A. (78-1021).

1978

Feb. 24 Certified copy ORDER, U.S. Court Appeals granting motion for appointment of counsel, etc., filed.

Feb. 24 Certified copy of ORDER, U.S. Court Appeals, appointing James D. Crawford, Esquire as counsel and setting briefing schedule, filed.

1979

Mar 5 Certified copy of Order U.S.C.A. that the judgment of the District Court filed 10/26/77 is vacated & the cause remanded for further proceedings consistent with the opinion of this court, filed.

Mar 5 Record on appeal returned.

Sep 20 Letter to Judge McGlynn from Maria Parisi Vickers, Deputy Attorney General re: request to stay proceedings pending decision in the U.S. Supreme Court, with Order approving same, filed.

GENERAL DOCKET
United States Court of Appeals
For the Third Circuit

Appeal from Eastern District of Pennsylvania
Adams
Case No. 78-1021
Title of Case

ADAMS, JOHN and all others similarly situated,
Appellants

vs.

CUYLER, JULIUS T., Superintendent, State Correctional Institution; SHUSTED, THOMAS J., individually and in his official capacity as Prosecutor of Camden County; BYRNE, BRENDAN T., individually and his official capacity as Governor of the State of New Jersey; SHAPP, MILTON, individually and in his official capacity as Governor of the Commonwealth of Pennsylvania; DOE, JOHN, individually and in his official capacity as Detective of Camden County; ROE, RICHARD, individually and in his official capacity as Detective of Camden County

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Attorneys for Appellant
Pro Se
James D. Crawford
Schnader, Harrison, Segal & Lewis
(Ct. Apptd.—Civil)

Attorneys for Appellee
Maria Parisi Vickers [Julius Cuyler]
William T. DiCiurcio (Shusted)
592 F.2d 720

No. Below: D. C. Civil No. 77-2075

Judge Below: Joseph L. McGlynn, Jr.

Date of Judgment:

Notice of Appeal filed: December 9, 1977

Commenced in D. C. June 14, 1977

Date	Account of Appellant
1978	
Jan. 6	Forma Pauperis in D. C.

Date	Filings—Proceedings	Filed
1978		
Jan. 6	[Forma Pauperis in D. C.—see copy of order dated December 8, 1977 (Joseph L. McGlynn, Jr., U.S.-D.J.) granting John Adams, appellant, leave to proceed in forma pauperis].	
	Copy of Notice of Appeal, received December 13, 1977, filed.	
	Record, received December 29, 1977, filed.	
	Motion by appellant, John Adams, for appointment of counsel, received December 21, 1977, filed. (7cc)	
	Proof of Service of appellant's motion for appointment of counsel, received December 30, 1977, filed.	
	Motion by appellant, John Adams, for temporary restraining order (which the court may wish to treat as a motion for injunctive relief pending appeal), received January 5, 1978, filed. (5cc) Service made by Office of S.S.A. 1/10/78	
Feb. 6	Appearance of Maria Parisi Vickers, Esq. for appellee, Julius Cuyler, filed.	

Feb. 13 Submitted on: (1) Appellant's motion for appointment of counsel; and (2) Order to show cause and temporary restraining order (which the Court may wish to consider as a motion for injunction pending appeal). Coram: Gibbons and Hunter, C.J.

Feb. 23 Order (*Gibbons* and Hunter, C.J.) granting appellant's petition for the appointment of counsel; directing the Clerk to arrange for such appointment; and denying the motion for an injunction pending appeal filed.

Feb. 23 Certified copy of above order to C. of D. C.

Feb. 23 Order *(Clerk)* appointing James D. Crawford, Esq., 1719 Packard Building, Phila., Pa. 19102, as counsel to represent appellants, which appeal, without compensation, is from the order of the District Court, dated October 26, 1977, which order dismissed appellants' complaint for failure to state a claim upon which relief can be granted in this civil rights case; and directing that the parties abide by the following briefing schedule: (1) Appellants' original and 3 legible copies of brief and the appendix to be filed and served within 40 days of the date of this order; and (2) appellees' brief to be filed and served within 30 days of the filing and service of appellants' brief and the appendix, filed.

Feb. 27 Appearance of James D. Crawford, Esq.; Schnader, Harrison, Segal & Lewis for appellants, filed.

Mar. 30 Consent motion by appellants for leave to extend time for filing brief and appendix to May 15, 1978, filed. (4 cc.). Certificate of service attached.

Mar. 31 Above consent motion granted. *Clerk.*

May 15 Consent motion by appellants for leave to extend time for filing brief and appendix to May 22, 1978, filed. (4 cc.). Certificate of service attached.

May 22 Above consent motion granted. *Clerk.*

May 22 Brief for appellants and appendix, filed. (25 cc.). Certificate of service by mail on May 22, 1978 appears on Page 28.

Jun. 16 Consent motion by appellees', Milton Shapp and Julius T. Cuyler, for leave to extend time to file brief to July 15, 1978, filed. (4 cc.) Service attached.

Jun. 23 Above consent motion granted. *Clerk.*

July 17 Brief for appellees, filed. (25 cc.). Service by mail on 7/17/78 attached.

Aug. 7 Letter dated August 4, 1978 from James D. Crawford, Esq., counsel for appellants, requesting oral argument, received.

Oct. 13 Appearance of William T. DiCiurcio, Esq., for appellee, Thomas J. Shusted, filed.

Nov. 3 Order dated November 1, 1978 (Gibbons, C.J.) directing 15 minutes argument time for each side, filed.

Nov. 14 Argued. Coram: Seitz, Ch. J., Gibbons and Weis, C.J.

Nov. 14 Copy of Memorandum and Order dated June 21, 1978 in the United States District Court, District of Massachusetts, received from counsel during oral argument. (4 cc.).

Nov. 16 Letter dated November 15, 1978 from Jerry I. Drew, Esq., counsel for appellee, rec'd for the information of the Court.

1979

Feb. 9 Opinion of the Court (Seitz, Ch.J., Gibbons and *Weis,* C.J.), filed.

Feb. 9 Judgment vacating the judgment of the District Court, filed October 26, 1977 and remanding the cause for further proceedings consistent with the opinion of this Court, filed.

Mar. 5 Certified judgment in lieu of formal mandate issued.

Mar. 5 Record returned to Clerk of D.C.

Mar. 7 Receipt for record from Clerk of D.C., filed.

Apr. 30 Copy of letter dated April 27, 1979 to counsel for appellee, advising that Supreme Court extended time for filing petition for writ of certiorari to and including June 9, 1979, rec'd from Clerk of Supreme Court.

June 14 Notice of filing on June 9, 1979 of petition for writ of certiorari, rec'd. from Clerk of Supreme Court, filed. (S. C. No. 78-1841).

1980

Feb. 25 Certified copy of order dated February 19, 1980 granting petition for writ of certiorari, rec'd from Clerk of the S. C., filed. (S. C. No. 78-1841).

SUMMONS IN A CIVIL ACTION

UNITED STATES DISTRICT COURT
FOR THE
EASTERN DISTRICT OF PENNSYLVANIA

Civil Action File No. 77-2075

JOHN ADAMS, and all others similarly situated
Plaintiff

v.

CUYLER, JULIUS, T., Superintendent, State Correctional Institution, SUSTED, THOMAS J., individually and in his official capacity as Prosecutor of Camden County, BYRNE, BREDEN D., individually and in his official capacity of Governor of the State of New Jersey, SHAPP, MILTON, individually and in his official capacity of Governor of the Commonwealth of Pennsylvania, DOE, JOHN, individually and in his official capacity as Detective of Camden County, ROE, RICHARD, individually in his official capacity as Detective of Camden County
Defendant

SUMMONS
FORMA PAUPERIS

To the above named Defendant:

You are hereby summoned and required to serve upon plaintiff's attorney, whose address P.P., No. F-6598, P. O. Box 244, Graterford, Pa., 19426, an answer to the

complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

John J. Harding
Clerk of Court.
Elizabeth M. Johnson
Deputy Clerk.

[Seal of Court]

Date: 6/22/77

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

COMPLAINT

Civil Action No. 77-2075

John Adams,

Plaintiff

And all others similarly situated

vs.

Julius T. Cuyler, Superintendent, State Correctional Institution, Graterford, Pennsylvania

And

Thomas J. Susted, Individually and in his official capacity as Prosecutor of Camden County, Courthouse, Camden, New Jersey

And

Breden D. Byrne, Individually and in his official capacity as Governor of the State of New Jersey

And

Milton Shapp, Individually and in his official capacity as Governor of the Commonwealth of Pennsylvania

And

John Doe, Individually and in his official capacity as Detective of Camden County, Courthouse, Camden, New Jersey

And

Richard Roe, Individually and in his official capacity as Detective of Camden County, Courthouse, Camden, New Jersey,

Defendants

JURISDICTION

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1. This is a civil action, authorized by 42 U.S.C. §§1981 and 1983, to redress the deprivation, under color of State law, of rights secured by the Constitution of the United States. The jurisdiction of this Court is invoked pursuant to the provisions of 28 U.S.C. §§1332 and 1343. Plaintiffs seek declaratory relief pursuant to 28 U.S.C. §§2201 and 2202.

PLAINTIFFS

2. Plaintiff John Adams is a citizen of the United States, the Commonwealth of Pennsylvania and is currently an inmate at the State Correctional Institution at Graterford, Pennsylvania.

3. Plaintiff John Adams brings this action on behalf of himself, and all others similarly situated; seeking class action maintenance pursuant to Rule 23 (a), Federal Rules of Civil Procedure, on the ground that the Interstate Agreement on Detainers, 19 P.S. §§1431 et seq., (as will appear *infra*), is unconstitutional as applied to himself and the unnamed members of his class.

4. During all of the times referred to hereinafter, all plaintiffs were citizens of the United States, the Commonwealth of Pennsylvania, and inmates of Pennsylvania prisons.

DEFENDANTS

5. During all of the times referred to hereinafter, Defendant Julius T. Cuyler was the Superintendent of the State Correctional Institution at Graterford, Pennsylvania. He is legally responsible for the overall operation of the State Correctional Institution at Graterford, Pennsylvania, and for the welfare of all the inmates of that prison.

6. During all of the times referred to hereinafter, Defendant Thomas J. Susted is the Prosecutor of Camden County, Camden, New Jersey. He is legally responsible for the prosecution of criminal cases in Camden County, Camden, New Jersey.

7. During all of the times referred to hereinafter, Defendant Brenden D. Byrne was elected by the people of the State of New Jersey as Governor of the State of New Jersey. He is legally responsible for the State of New Jersey being a signatory state and party to the Interstate Agreement on Detainers. See; N.J.S.A. 2A: 159A-1 to 2A: 159A-15.

8. During all of the times referred to hereinafter, Defendant Milton Shapp is the legally elected Governor of the Commonwealth of Pennsylvania. He is legally responsible for the said Commonwealth of Pennsylvania being a signatory party to the said Interstate Agreement on Detainers.

9. During all of the times referred to hereinafter, Defendants John Doe and Richard Roe are employed as Detectives for Camden County, Camden, New Jersey. Based on information and belief, Defendants Doe and Roe are the authorized agents and servants of Defendant Susted, and are legally responsible for the interstate transfer of plaintiffs pursuant to the Interstate Agreement.

10. For the reasons set forth in paragraphs 11 to 15, *infra,* the Interstate Agreement on Detainers, 19 P.S. §§1431 et seq. is unconstitutional as applied to plaintiffs in that it denies them the due process and equal protection of the law guaranteed them by the Fourteenth Amendment to the United States Constitution.

11. On May 3, 1977, a Request for Temporary Custody of Plaintiff Adams was lodged by the Camden County Prosecutor's Office with Defendant Cuyler. Pursuant to the provisions of the Interstate Agreement on Detainers, 19 P.S. §§1431 et seq. ("Agreement"), Plaintiff Adams was provided with a copy of this Request, but was not informed of any of his constitutional rights.

12. Article IV, Section (a) of the Agreement provides that a prisoner against whom a detainer has been lodged may petition the Governor of Pennsylvania to disapprove of the request. Yet there is nothing in the Act mandating the superintendent of the institution where the prisoner whose custody is so requested to inform the detainee of his right to seek relief from the Governor, and this failure constitutes a denial of his right to due process.

13. Unlike the Uniform Extradition Act, 19 P.S. 191.1 et seq., the said Agreement does not provide for the imprisoned detainee to contest his extradition in a court of record in Pennsylvania before being delivered over to the authorities of the foreign state. This denial of those procedural rights which are afforded to individuals who, at the election of the foreign state are extradited under the aforementioned Uniform Extradition Act, 19 P.S. §§191.1 et seq., violates the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

14. Plaintiff Adams was not notified of any of the procedural rights accorded by either the Uniform Extradition Act or the Interstate Agreement on Detainers, in consequence of which he was denied his right to due process.

15. Based on information and belief, it is the practice of Defendant Cuyler, the Superintendents of all other State Correctional Institutions and Wardens of all prisons within the Commonwealth of Pennsylvania, to deliberately fail to inform any and all inmates or prisoners under their care and/or custody of the aforementioned procedural rights. It is their further practice to proceed under the Interstate Agreement on Detainers Act and to ignore the rights of the Uniform Extradition Act. By agreeing to proceed in this manner, Defendants Cuyler and Shusted conspired to deprive Plaintiff Adams of his civil rights.

16. Based on information and belief, all of the aforementioned Superintendents and Wardens of Pennsylvania prisons agree with the authorities of foreign states to proceed under the said Agreement, rather than afford those prisoners in their custody the procedural rights provided by the Uniform Criminal Extradition Act.

17. Plaintiff John Adams has been in the custody of Pennsylvania authorities, continuously, since February 6, 1976. Prior to that date, he was initially arrested by Pennsylvania law enforcement agents on June 20, 1975, and remained in custody until his escape on December 4, 1975. He remained at large until February 6, 1976, (a period of sixty-four days), when he was recaptured.

18. Although the Records Officer, at the State Correctional Institution at Graterford, Pennsylvania, ("S.C.

I.G."), recently informed him that the New Jersey authorities stated that they were unaware of Plaintiff Adams' whereabouts from July 2, 1974, until shortly before they lodged the aforesaid Request for Temporary Custody, the transcript of his Preliminary Arraignment on the criminal charges against him in Pennsylvania, on June 21, 1975, and the transcribed Notes of Testimony of his trial on those charges on March 29, 1976 through April 9, 1976, reveal that law enforcement agents of three (3) New Jersey counties were present at these proceedings. A true and correct copy of those parts of Plaintiff Adams' trial transcript, (Nos. 623-641, December Term, 1975, before the Honorable Angelo A. Guarino, and a jury, Room 443, City Hall, Philadelphia County), is attached hereto and marked as Plaintiff's Exhibit "A".

Plaintiff Adams cannot attach a copy of his Preliminary Arraignment transcript, or Preliminary Hearing transcript, because none has ever been supplied to him.

19. Plaintiff Adams' custody is requested by the State of New Jersey, for prosecution in connection with a number of offenses which such state charges him with committing against its peace and dignity, and in violation of its laws; all such offenses charged with having occurred during the year of 1973.

20. Plaintiff Adams has long been aware of the accusations contained in the Request for Temporary Custody lodged against him on May 3, 1977. A true and correct copy of this Request, under the Interstate Agreement, is attached hereto and marked as Plaintiff's Exhibit "B". However, because he was in the Commonwealth of Pennsylvania on the dates of most when most of these offenses were stated to have occurred, and could produce witnesses

to so testify in the event that he was formally charged and brought to trial, he believed that these charges had long since been dismissed.

21. Plaintiff Adams' main alibi witness, his mother, however, is now deceased, thereby providing Defendant Shusted with an unfair advantage; an advantage secured by Defendant Shusted's deliberate failure to lodge his detainer until May 3, 1977, although he has been aware of Plaintiff Adams' whereabouts for at least one and one-half years. Had Defendant Shusted lodged his detainer timely, Plaintiff Adams would have requested prompt disposition thereof, pursuant to the provision that, upon request, trial must begin within one-hundred and eighty days (180). Therefore, Defendant Shusted's failure to lodge such detainer, timely, has not only deprived Plaintiff Adams of his right to a speedy trial, but has also operated to so prejudice his defense as to deprive him of his right to a fair trial; both rights secured to him by the Sixth Amendment to the United States Constitution.

22. Despite the allegations of paragraph 21, *supra,* Plaintiff Adams truly believes that, were he afforded the procedural rights of the Uniform Extradition Act, there is a strong possibility that Defendant Shusted would be unable to prove that Plaintiff was in the State of New Jersey on at least several of the dates listed in the Request; and, therefore, that the Pennsylvania Court would not permit Plaintiff's extradition.

LEGAL CLAIMS

23. The Interstate Agreement on Detainers, 19 P.S. §§1431 et seq., as applied to Plaintiff Adams, and those unnamed members belonging to the class of persons

similarly situated, is unconstitutional for the reasons set forth in paragraphs 10 through 16, *supra;* being in violation of rights secured to the plaintiffs by the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the United States Constitution.

24. The acts and practices of Defendant Cuyler, in agreeing to proceed under the Interstate Agreement on Detainers, 19 P.S. §§1431 et seq., and to ignore the procedure rights of the Uniform Extradition Act, 19 P.S. §§191.1 et seq., for all plaintiffs confined in S.C.I.G., whose custody is requested by foreign states, deprive them of rights secured to them by the Due Process Clause of the Fourteenth Amendment.

25. By failing to inform plaintiffs of their right to appeal to the Governor of Pennsylvania to disapprove of the said Requests for Temporary Custody, Defendant Cuyler deprives them of their right to due process of the law; such right also secured by the Fourteenth Amendments to the United States Constitution.

26. By information and belief, Plaintiff Adams avers that prior attempts to seek relief from delivery into the hands of the agents and servants of Defendant Shusted, by way of petitioning the Court of Common Pleas, Montgomery County, Pennsylvania, for a writ of habeas corpus or either a temporary or permanent injunction restraining Defendant Cuyler from such delivery, have been ignored. Therefore, plaintiffs have no plain, adequate or complete remedy at law to redress the wrongs described herein. Plaintiffs have been and will be continually irreparably injured by the conduct of the defendants unless this Court grants the declaratory and injunctive relief which plaintiffs seek.

WHEREFORE, plaintiffs respectfully pray that this Honorable Court enter judgment granting plaintiffs:

1. A declaratory judgment that defendants' acts, policies and practices as described herein violate plaintiffs' rights under the United States Constitution.

2. A preliminary and permanent injunction which:

(a) Restrains Defendant Cuyler from delivering custody of any and all plaintiffs herein to the agents and/or servants of any foreign state, in response to a Request for Temporary Custody under the Interstate Agreement on Detainers, 19 P.S. Sections 1431 et seq., until this Court Rules on the Constitutionality of such Agreement.

(b) Restrains and enjoins any and all superintendents, wardens, or other such persons having custody of the inmates of Pennsylvania's prisons, jails, state hospitals, etc., et al, from delivering such inmates into the custody of a foreign state in response to such Request under the Agreement; until the Court Rules on the constitutionality of such Agreement.

(c) Or, in the alternative;

Plaintiff John Adams prays this Honorable Court to issue a preliminary and permanent injunction restraining Defendant Cuyler from delivering him over to the custody of Defendants Doe and Roe, for transportation to the State of New Jersey and the custody of Defendant Shusted, without first bringing him before a court of record in the state of Pennsylvania and affording him the procedural rights provided by the Uniform Extradition Act.

Or, in the alternative;

Should Plaintiff Adams be delivered into the custody of Defendants Doe and Roe, and transported to the State

of New Jersey before this Court has the opportunity to review this pleading and act thereon, issue a preliminary and permanent injunction which:

(d) Prohibits Defendant Shusted from prosecuting Plaintiff Adams in connection with the offenses charged in Plaintiff's Exhibit "B", until such time as this Court determines the constitutionality or unconstitutionality of the interstate transfer of Plaintiff Adams;

(e) Requires Defendant Shusted to return Plaintiff Adams to the custody of the State of Pennsylvania, pending the aforementioned determination;

(f) Provides that Plaintiff Adams be awarded compensatory damages in the amount of $10,000 from Defendants Cuyler and Shusted, and each of them, and compensatory damages in the amount of $5,000 from all other defendants, and each of them, for the physical discomfort he will have suffered from confinement in the cruel and inhuman condition prevalent in the Camden County Jail and the emotional pain and stress he has already suffered, and will suffer, because of the deprivation of his constitutionally secured rights by the defendants herein.

Respectfully submitted,

John Adams
John Adams, No. F-6598
State Correctional Institution
Graterford, Pennsylvania 19426

In Propria Persona

[Title Omitted in Printing]

Commonwealth of Pennsylvania
County of Montgomery ss:

I, JOHN ADAMS, being duly sworn, depose and say:

1. I am the named plaintiff in the above-titled action.

2. I believe I am entitled and intend to bring this action in the United States District Court for the Eastern District of Pennsylvania against the above-named defendants.

3. The action seeks to enjoin those defendants from delivering over custody of the plaintiffs herein to the agents and/or servants of any foreign state, in response to a Request for Temporary Custody under the Interstate Agreement on Detainers, Title 19, Purdon's Statutes, Section 1431 et seq., and seeks damages in the amount of $40,000 for deprivation of Plaintiffs' civil rights.

4. I believe that I am entitled to the redress sought in this action.

5. I have read and know the contents of the attached Complaint and the same are true of my own knowledge except as to the matters therein stated to be alleged on information and belief, and as to those matters I believe them to be true.

(s) John Adams
Affiant

[Jurat Omitted in Printing]

[Note: Motion for Leave To Proceed in Forma Pauperis and Affidavit in Support Thereof Omitted. Proposed Order Omitted.]

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MEMORANDUM OF LAW AND AFFIDAVIT IN SUPPORT OF PLAINTIFF JOHN ADAMS' REQUEST FOR A TEMPORARY RESTRAINING ORDER

Civil Action No.

JOHN ADAMS, et al.,

Plaintiffs

vs

JULIUS T. CUYLER, et al.,

Defendants

The command of Rule 65 (d), Federal Rules of Civil Procedure, being clear, only a clear showing that irreparable harm will incur should immediate relief not be granted, will operate to excuse failure to give the required notice.

Plaintiff John Adams believes that the peculiar circumstances of the instant matter, as delineated in the Complaint, and the affidavit attached to the instant memorandum, meet the requirements of Rule 65 (b), supra.

For a motion for a preliminary injunction to be granted, the movant must show a substantial likelihood

of success on the merits, and, that irreparable harm will flow from the denial of such injunction; in addition, the trial judge must consider the inconvenience that an injunction would cause the opposing party, and weigh the public interest as well. *Creque v. Government of the Virgin Islands,* 354 F. Supp. 849 (D.C.V.I. 1973); *McGuire Shaft & Tunnel Corp. v. Local 1791, United Mine Workers of America,* 475 F.2d 1209 (Em. App. 1973).

Here, the Court is presented with an action wherein, should the requested Temporary Restraining Order not be granted, Plaintiff Adams will certainly be delivered into the custody of the agents, employees or servants, of Defendant Thomas Shusted, by Defendant Julius T. Cuyler, in response to the "Request for Temporary Custody", under the Interstate Agreement on Detainers, 19 P.S. §1431 et seq., lodged by Defendant Shusted against Plaintiff Adams on May 3, 1977.

The purpose of the said "Request", as clearly stated therein, is to bring Plaintiff Adams to trial on offenses charged against him in the State of New Jersey. See Plaintiff's Exhibit "B". Since it is just as clear that Defendant Shusted has been aware of Plaintiff Adams' whereabouts for a period of time certainly exceeding fourteen (14) months, and possibly in excess of twenty-three (23) months, little or no inconvenience would result to Defendant Shusted by the issuance of the requested T.R.O. As for the other defendants, there is no question of causing them any inconvenience at all.

On the other hand, should the requested relief be denied, this Court may take judicial notice of the fact that Plaintiff Adams will surely be transferred to the

State of New Jersey, and, just as surely, be tried on the charges there pending against him.

Whether Defendant Shusted's delay, of approximately four (4) years, in bringing his accusations against Plaintiff Adams, would operate to deny the plaintiff his constitutionally secured right to a fair trial because of the death of his mother on February 4, 1977, is problematical. However, in the light of the fact that his late mother was prepared to swear that the plaintiff was not even present in the State of New Jersey, but at her home in Philadelphia, Pennsylvania, on the dates when several of the offenses charged are alleged to have occurred, there is no doubt that Plaintiff Adams' defense against such charges would be severely hampered.

It is therefore respectfully contended that, unless this Honorable Court issues the requested T.R.O., and allows him to present evidence of Defendant Shusted's deliberate and willful delay in requesting his custody until after the recent death of his main alibi witness at the hearing on his application for a preliminary injunction, irreparable harm in the form of a criminal conviction for an offense which he did not commit is likely to befall Plaintiff John Adams. This likelihood, of an unjust criminal conviction, meets the requirement that the "irreparable injury" for purposes of a temporary restrain-order or preliminary injunction, be, in part, that for which the award of monetary damages cannot compensate. *Heidman v. U.S. Lawn Tennis Ass'n,* 354 F. Supp. 1241 (D.C. N.Y. 1973).

The probability of success on the merits may be gauged by the Opinion and Order of the Honorable Herbert A. Fogel, speaking for this very Court, in the matter

of *James E. Danzy v. Robert L. Johnson, No.* 74-100 (August 4, 1976), (Unreported).

In *Danzy, supra,* the identical question of whether the denial to persons extradited under the Interstate Agreement on Detainers, 19 P.S. §1431 et seq., of those procedural rights which are afforded to individuals who, at the election of the foreign state, are extradited under the Uniform Criminal Extradition Act, 19 P.S. §191.1 et seq., violate the equal protection clause of the Fourteenth Amendment, was presented. *Danzy, supra,* slip opinion at p. 1. There, however, the plaintiff failed to either seek class action relief, (*Danzy supra,* at p. 12), or, to claim damages, (*Danzy, supra,* at p. 10), and the injunctive and declaratory relief sought was not granted. Judge Fogel's exhaustively researched opinion outlines in detail the factors to be weighed in determining whether the Court should decline the relief sought for mootness and concludes. (*Danzy, supra,* Slip Opinion at page 13):

> "*First of all,* a timely and proper claim for damages would clearly have avoided, and in future cases would avoid a determination that the action is moot,
>
> *Second, no effort has even been made to amend the complaint to include a request for class relief.* * * * Thus, an action commenced in the future, presenting the same issues which plaintiff has attempted to raise in this case, as soon as notice of an impending transfer were given, coupled with a request for class relief, would negate the question of mootness." (Emphasis in original.)

Plaintiff Adams has complied with both of the above requirements; seeking monetary damages *and* requesting class relief.

For the above-mentioned reasons, and the facts attested to in both the Complaint and the affidavit attached hereto, it is respectfully urged that the Court grant Plaintiff Adams' request for a temporary restraining order.

Respectfully submitted,

(s) John Adams
John Adams, No. F-6598
State Correctional Institution
P. O. Box 244
Graterford, Pennsylvania 19426

In Propria Persona

Dated: May 27, 1977

Commonwealth of Pennsylvania
County of Montgomery ss:

AFFIDAVIT

I, JOHN ADAMS, being duly sworn, depose and say:

1. I am the plaintiff, in the matter of ADAMS V. CUYLER, et al.; and the movant in the attached request for a temporary restraining order. I have read the contents thereof, and the same are true to the best of my knowledge, information and belief.

2. A Request for Temporary Custody under the Interstate Agreement, 19 P.S. §§1431 et seq., was lodged against me, at the State Correctional Institution at Graterford, Pennsylvania, by Defendant Shusted, on May 3, 1977.

3. Although I was provided with a copy of such request, by an employee of Defendant Julius T. Cuyler, I was never officially notified of my right to petition the Governor of Pennsylvaina to disapprove such request, and, was only informed of this right, and the procedural rights afforded those persons who, at the election of a foreign state, are extradited under the Uniform Extradition Act, 19 P.S. §§191.1 et seq., by a fellow-inmate who is also a trained paralegal.

4. The Complaint, and all pleadings submitted therewith, in the instant matter, were prepared for me by this same paralegal; under my direction, but the facts therein were dictated by myself and are true of my own knowledge, information and belief.

5. That Defendant Shusted was, at least since the date of my trial in the State of Pennsylvania which began on March 29, 1976, aware of my whereabouts, is proven by the photocopies of pages of such trial transcript, attached hereto and marked as Plaintiff's Exhibit "A". Yet, as shown by Plaintiff's Exhibit "B", Defendant Shusted did not lodge his Request until May 3, 1977.

6. It is plaintiff's belief, and contention, that Defendant Shusted's failure to request my custody at an earlier date, and his lodging such request almost exactly three (3) months subsequent to the death of my mother on February 4, 1977, was occasioned by Defendant Shusted's knowledge that my mother would testify that I was with her, in Philadelphia, Pennsylvania, on the dates of at least several of the offenses with which I am accused in New Jersey. It is my further belief, and contention, that Defendant Shusted did not lodge his Request for my custody until being informed of the death of my mother; therefore, that the lodging of such request was deliberately delayed, and, that Defendant Shusted is now willfully engaged in a deliberate attempt to acquire custody of me in order to deprive me of the right to a fair trial secured to me, and all citizens, by the Sixth and Fourteenth Amendments to the United States Constitution.

7. At least one, and probably more, of the inmates of the State Correctional Institution at Graterford, Pennsylvania, has attempted to contest being transferred to the State of New Jersey, pursuant to a like Request, by filing a petition for writ of habeas corpus in the Court of Common Pleas for Montgomery County, but that court refused to hear such petition, or, to enjoin or restrain the Superintendent from transferring custody of him to the agents of Thomas Shusted.

8. Although I am now aware of my procedural rights, such as they are, under the Interstate Agreement, such knowledge was only imparted to me on May 24, 1977, too late to prevent Defendant Shusted from acquiring custody of me even should Defendant Shapp disapprove his request.

9. I am, personally, acquainted with numerous persons confined in the Correctional Institutions, prisons and jails of Pennsylvania who have been or are now awaiting transfer to the custody of foreign states pursuant to the said Agreement; but none whose extradition was or is requested under the Uniform Extradition Act. This fact, however, may more properly be verified by this Honorable Court by the exercise of its powers to compel the production of the records of such requests.

10. My pending transfer to the custody of a foreign state, pursuant to an Agreement which allows me no adequate remedy at law, and not even the opportunity to contest such extradition in a court of record, has caused and is causing me such anxiety and concern as to seriously imperil my health and well-being; already resulting in my being prescribed tranquilizers by the institutional physician.

11. Additionally, if such transfer is consummated, my prison wages of approximately $1.00 a day will terminate. There is no opportunity for inmates confined in the Camden County Prison to earn money for their either necessities or luxuries, and my poverty will prevent my purchasing such items as are sold at that prison's canteen; thus causing me undue hardship.

12. Because of the living conditions, prevelant in the said Camden County Jail, it is reported in the media

of both New Jersey and Pennsylvania that there are presently several actions pending in the United States District Court for the District of New Jersey seeking relief in the form of a declaratory judgment that such conditions constitute the "cruel and unusual punishment" prohibited by the Eighth and Fourteenth Amendments to the United States Constitution. The prospect of confinement, for an undetermined period of time, under such conditions, is presently causing me undue concern and anxiety.

13. Although I am without sufficient personal knowledge to verify the truth or falsity of such statements, I have been informed by other inmates of S.C.I.G., who have previously been transferred to the custody of Defendant Shusted, pursuant to the said Agreement, that it is the practice of Defendant Shusted to deliberately delay the appearance in the courts of New Jersey of such "transferees" for periods in excess of three (3) or four (4) months, refusing to return them to the custody of Pennsylvania until the oppressive conditions in the Camden County Jail become so intolerable that they plead guilty to state criminal charges just to be returned to the custody of Pennsylvania.

(s) John Adams
Affiant

[Jurat Omitted in Printing]

EXHIBIT "A"

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* * * * * * * *

(1008) is excused?

MR. CASEY: I would request that.

THE COURT: All right, he's excused.

MR. CASEY: Thank you, Mr. Loughlin.

(Whereupon the witness is excused.)

MR. CASEY: Officer Paul Leusner.

PAUL LOUIS LEUSNER, Badge No. 815, Palmyra, New Jersey, Police Department, having been duly sworn, testified as follows:

Direct Examination

BY MR. CASEY:

Q. Officer Leusner, once again, keep your voice up so everyone can hear you.

In March—on March 1st of '73, were you employed?

A. Yes, sir, I was.

Q. How were you employed?

A. I was employed as a patrolman on the Cinnaminson Township Police Department.

Q. Were you working that day?

A. Yes, I was. I was on the three to eleven shift.

Q. Is that three in the afternoon you're working?

A. That's three in the afternoon till eleven at night.

Q. At any time during your tour of duty, did you have

* * * * * * * *

(1034) admissibility, of course.

THE COURT: All right. The record is clear. We'll proceed.

MR. CASEY: Thank you, your Honor.)

(The following takes place in open Court.)

MR. CASEY: Officer, would you take stand, please.

FREDERICK HILL, Badge No. 23, Patrolman, Cinnaminson Township Police Department, Cinnaminson, New Jersey, having been duly sworn, testified as follows:

Direct Examination

BY MR. CASEY:

Q. Officer Hill, directing your attention to March 1st of 1973, how were you employed?

A. I was employed as a patrolman.

Q. In what community?

A. In Cinnaminson, on the 3 p.m. to 11 p.m. shift.

Q. That's located in New Jersey. Is that correct?

A. Yes.

Q. What was your specific assignment on that date? Were you working in the office or assigned to a patrol car?

* * * * * * * *

(1044) MR. MONTGOMERY: Bear with us for a second, your Honor.

THE COURT: Yes.

(Pause.)

MR. FITZPATRICK: On behalf of George Wallace, your Honor, I have no questions of this witness.

MR. MONTGOMERY: On behalf of Robert Cullen, no questions, sir.

MR. BOLNO: No questions.

THE COURT: All right.

MR. CASEY: May the officer be excused, if Counsel has no objection?

THE COURT: Yes, he's excused.

(Whereupon the witness is excused.)

MR. CASEY: May I call the next witness, sir?

THE COURT: Yes.

MR. CASEY: Detective Sergeant Adams, will you take the stand, please.

WILLIAM ADAMS, Detective Sergeant of Police, Badge No. 3, Cinnaminson Police Department, Cinnaminson, New Jersey, having been duly sworn, testified as

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(1370) Afternoon Session
April 23, 1976

(Whereupon the Jury enters the Courtroom.)

MR. CASEY: May I proceed?

THE COURT: You may call your next witness.

MR. CASEY: Thank you, your Honor. Sergeant Russel Williams. Sergeant, will you take the stand, please.

RUSSEL WILLIAMS, Sergeant, Badge No. 7, Cinnaminson Police Department, Cinnaminson, New Jersey, having been duly sworn, testified as follows:

Direct Examination

BY MR. CASEY:

Q. Sergeant, how long have you been a member of the Cinnaminson Police Department?

A. Thirteen years.

Q. Were you working on May 30th of 1973?

A. Yes, sir.

Q. What time did you come on duty, Sergeant?

A. 11 p.m.

* * * * * * * *

(1379) A. I'd have to guess at the time, I don't know exactly the time.

Q. To the best of your ability to remember.

A. I'd say it was within ten minutes.

Q. And how long after he arrived did he turn off the car?

A. Oh, matter of maybe two, three minutes after he got there.

MR. BOLNO: No further questions.

MR. CASEY: I have nothing on redirect, your Honor.

THE COURT: All right. Sergeant Williams, you're excused.

(Whereupon the witness is excused.)

MR. CASEY: Detective Bowen.

JOSEPH BOWEN, Badge No. 12, Cinnaminson Police Department, Cinnaminson, New Jersey, having been duly sworn, testified as follows:

Direct Examination

BY MR. CASEY:

Q. Detective Bowen, two pictures have been marked for identification as C-13 and 14. The Court Officer—I'll request that he show you those. Who took those pictures?

A. I did.

* * * * * * * *

(1486) JAMES RICHARD GILBERT, 8 Stuart Avenue, Delran, New Jersey, having been duly sworn, testified as follows:

Direct Examination

BY MR. CASEY:

Q. Officer Gilbert, how were you employed on July 29th of 1973?

A. A patrolman for the Delran Township Police Department.

Q. How long have you been so employed?

A. Approximately three years, sir.

Q. On the date I'm asking you about, what times or tour of duty were you working?

A. I was scheduled for the eight to four shift.

Q. Did you work that shift or did you work another shift?

A. No, I worked the eight to four shift that day.

Q. Is that the 29th?

A. Yes, sir.

Q. At any time did you become aware of a robbery which had occurred in Delran, New Jersey, in the Millside Shopping Center of a Pantry Pride?

A. Yes, sir, I did.

* * * * * * * *

(1492) Honor.

MR. BOLNO: I have no questions.

(Whereupon the witness is excused.)

THE COURT: Detective Reynolds.

CHARLES D. REYNOLDS, Delran Township Police Department, Delran, New Jersey, having been duly sworn, testified as follows:

Direct Examination

BY MR. CASEY:

Q. Detective Reynolds, how long have you been a member of the Delran Police Department?

A. Eight years, sir.

Q. In July of '73, did you have occasion to investigate a robbery of a Pantry Pride occurring in the Millside Shopping Center, Delran, New Jersey?

A. Yes, sir, I did.

Q. As part of that investigation, did you at least come into contact with an individual named William Eggert?

A. Yes, sir, I did.

Q. On what date did you receive the robbery report?

A. The 28th of July, 1973.

Q. What date or day of the week was that, do you recall, Detective Reynolds?

* * * * * * * *

(1626) Afternoon Session
April 28, 1976

(All parties present except Joseph Montgomery, Esq.)

THE COURT: All right. Are we ready to proceed?

MR. FITZPATRICK: Your Honor, I would call Officer Brinkman.

ANTHONY R. BRINKMAN, Detective, West Deptford Township Police Department, West Deptford, New Jersey, having been duly sworn, testified as follows:

Direct Examination

BY MR. FITZPATRICK:

Q. Detective Brinkman, how long have you been a police officer?

A. Been nine years 5 June this year.

Q. And how long have you been a detective?

A. Four years.

Q. All right. Officer, you were assigned to the investigation of the Pantry Pride incident on September the 1st?

* * * * * * * *

(1637) part of it?

A. That's correct.

Q. If in fact—okay. All right.

MR. FITZPATRICK: I have no other questions of Officer Brinkman.

MR. CASEY: I have no questions of Detective Brinkman, your Honor.

MR. FITZPATRICK: Excuse me, Detective Brinkman.

(Whereupon the witness is excused.)

MR. FITZPATRICK: Your Honor, if I may have a moment with Officer White, it could be right here without having a recess.

(Pause.)

THE COURT: All right. Are we ready, gentlemen?

MR. FITZPATRICK: Officer White.

EDWARD WHITE, Badge No. 417, West Deptford Township Police Department, West Deptford, New Jersey, having been duly sworn, testified as follows:

Direct Examination

BY MR. FITZPATRICK:

Q. Officer White, did you interview at any time or

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(2197) Craus.

(Whereupon the witness is excused.)

MR. CASEY: Sergeant Fuller, will you take the stand, please.

JAMES R. FULLER, Sergeant, Stratford Police Department, Startford, New Jersey, having been duly sworn, testified as follows:

Direct Examination

BY MR. CASEY:

Q. Sergeant Fuller, how long have you been a member of the Stratford, New Jersey, Police Department?

A. Fourteen years, sir.

Q. On September 29th of 1973, were you working?

A. Yes, sir, I was.

Q. What times or tour of duty?

A. I was working from 4 p.m. to 12 midnight.

Q. What specific assignment did you have on that date, if you had a specific assignment?

A. No specific assignment routine patrol.

Q. And what kind of vehicle, sir?

A. Marked patrol car.

Q. Okay. Were you working alone or did you have a partner?

* * * * * * * *

(2216) JOHN JOYCE, Detective Sergeant, Stratford Police Department, Stratford, New Jersey, having been duly sworn, testified as follows:

Direct Examination

BY MR. CASEY:

Q. Sergeant Joyce, how long have you been a member of the Stratford, New Jersey, Police Department?

A. Sixteen and a half years.

Q. Were you on duty on the night of September 29th, of 1973 or were you called on duty at any time that night?

A. I was on call that evening.

Q. Were you called to duty that evening?

A. Yes, sir, I was.

Q. Approximately what time were you called to duty, Sergeant?

A. Approximately 9:20 p.m.

Q. When you were called to duty, where did you go?

A. I—I proceeded to the Pantry Pride on U.S. Route 30 in Stratford.

Q. After you arrived at that scene, did you receive any information concerning a motor vehicle?

A. Yes, sir, I did.

Q. After you received the information concerning a motor

* * * * * * * *

(2252) CHARLES GORISH, 2158 Federal City Road, Lawrenceville, New Jersey, having been duly sworn, testified as follows:

Direct Examination

BY MR. CASEY:

Q. Sergeant, what police department are you presently a member of?

A. It's the Lawrence Township Police Department.

Q. How long have you been employed as a police officer in Lawrence Township?

A. Twenty-one years.

Q. Were you working on November 23rd of 1973?

A. Yes, sir.

Q. What times or tour of duty were you working, sir?

A. Four—4 p.m. till midnight.

Q. What was your specific assignment? Were you working inside or outside?

A. It's both, inside and outside.

Q. In the area of 8:45, 9 p.m., were you inside or outside?

A. Outside.

Q. Did you have occasion to be in the area of the Lawrence Shopping Center, a Pantry Pride there at or about

* * * * * * * *

(2472) THE COURT: No. Mr. Carrero, you're excused.

(Whereupon the witness is excused.)

MR. CASEY: Officer Coxson, would you take the stand, please.

EARL COXSON, Badge No. 35, Cherry Hill Township Police Department, Cherry Hill, New Jersey, having been duly sworn, testified as follows:

Direct Examination

BY MR. CASEY:

Q. Officer Coxson, by what police department are you presently employed?

A. Cherry Hill, New Jersey.

Q. How long have you been so employed?

A. Four and a half years.

Q. Were you working on the night of May 15th, 1974?

A. Yes, sir, I was.

Q. What times or tour of duty were you working?

A. I was working a three to—3 p.m. to 1 a.m. shift.

Q. What was your specific assignment on that date?

A. West End Tactical Corps.

Q. What, if any, vehicle were you in?

EXHIBIT "B"

Office of The Prosecutor

CAMDEN COUNTY

Parkade Building—518 Market Street
Camden, New Jersey 08101

April 29, 1977

Julius T. Cuyler, Supt.
Pa. State Correctional Institution
Box 244
Graterford, Pa. 19426

Re: STATE vs. JOHN ADAMS—No. F-6598
Ind. No.—SGJ-30-75-1A

Dear Sir:

Enclosed please find Agreement on Detainers—Form No. 5—Request for Temporary Custody—in connection with the above captioned subject who is presently incarcerated in your institution.

Your kind and prompt attention and cooperation in this matter is appreciated.

Very truly yours,
Thomas J. Shusted
Camden County Prosecutor

BY: Josephine L. Sosa, Secy.
jls
Enc.
cc—John Adams—F-6598
Mrs. Kathryn Flicker
Deputy Attorney General

In the case of an inmate's request for disposition under Article III, copies of this Form should be attached to all copies of Form 2. In the case of a request initiated by a prosecutor this Form should be completed after the Governor has indicated his approval of the request for temporary custody or after the expiration of the 30 day period. Copies of this Form should then be sent to all officials who previously received copies of Form 3. One copy also should be given to the prisoner and one copy should be retained by the warden. Copies mailed to the prosecutor should be sent by certified or registered mail, return receipt requested.

Agreement on Detainers: Form 4

OFFER TO DELIVER TEMPORARY CUSTODY

Date May 3, 1977

TO: (Insert name and Title if known) Thomas J. Shusted, Esq. Prosecuting Officer
(jurisdiction) Camden County, New Jersey

And to all other prosecuting officers and courts of jurisdiction listed below from which indictments, information or complaints are pending.

RE: (inmate) John William Adams Number F-6598

Dear sir:

Pursuant of the provisions of Article V of the Agreement on Detainers between this state and your state, the undersigned hereby offers to deliver temporary custody of the above-named prisoner to the appropriate authority in your state in order that speedy and efficient prosecution may be had of the indictment, information or com-

plaint which is described in your request of April 29, 1977.

(The required Certificate of Inmate Status is enclosed.)

If the proceedings under Article IV (d) of the Agreement are indicated, an explanation is attached.

Indictments, informations and complaints charging the following offenses also are pending against the inmate in your state and you are hereby authorized to transfer the inmate to custody of appropriate authorities in these jurisdictions for purposes of disposing of these indictments, informations or complaints.

[Marginal Notation:]
30 day waiting period to apply

Five copies. Signed copies must be sent to the prisoner and to the official who has the prisoner in custody. A copy should be sent to the Agreement Administrator of the State which has the prisoner incarcerated. Copies should be retained by the person filing the request and the judge who signs the request.

Agreement on Detainers: Form 5

REQUEST FOR TEMPORARY DUTY

TO: JULIUS T. CUYLER (Superintendent) Pa. State Correctional at Graterford, Box 244, Graterford, Pa. 19426

Please be advised that JOHN ADAMS-F-6598, who is presently an inmate of your institution, is under (indictment) in the County of Camden of which I am the County Prosecutor.

Said inmate is therein charged with the (offenses) enumerated below:

OFFENSE

Conspiracy; Armed Robbery; Break. & Enter. W/I to Steal; Poss. Deadly Weapon & Unlaw. Use of Radio Receiver

I propose to bring this person to trial on this (indictment) within the time specified in Article IV(c) of the Agreement.

In order that proceedings in this matter may be properly had, I hereby request temporary custody of such persons pursuant to Article IV(a) of the Agreement on Detainers.

Signed Thomas J. Shusted
(Camden County Prosecutor)
Thomas J. Shusted

I hereby certify that the person whose signature appears above is an appropriate officer within the meaning of Article IV(a) and that the facts recited in this request for temporary custody are correct and that having duly recorded said request I hereby transmit it for action in accordance with its terms and the provisions of the Agreement on Detainers.

Dated: 4/28/77

Signed Charles [Illegible]
(Judge, Camden County Court)

4/22/77—jls

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Civil Action No. 77-2075

JOHN ADAMS, et al.,

Plaintiffs,

v.

JULIUS T. CUYLER, et al.,

Defendants,

ANSWER

[Filed Sep 15 1977 John J. Harding, Clerk By Emj Dep. Clerk]

Defendant Milton Shapp and Julius T. Cuyler, by their attorney, Maria Parisi Vickers, Assistant Attorney General for Eastern Pennsylvania answer plaintiff's Complaint in the following manner:

1. This paragraph contains jurisdictional allegations to which no answer is required.

2. Admitted.

3. To the extent that this paragraph contains factual allegations, it is denied; to the extent that it contains conclusions of law, no answer is required.

4. Defendants are without knowledge as to the truth or falsity of this allegation and demands strict proof at trial.

5. It is admitted that Julius Cuyler is the Superintendent of the State Correctional Institution at Graterford, the remaining allegations in this paragraph are conclusions of law to which no answer is required.

6. Defendants are without knowledge as to the truth or falsity of this allegation and demands strict proof at trial.

7. Defendants are without knowledge as to the truth or falsity of this allegation and demands strict proof at trial.

8. Admitted that Milton Shapp is the legally elected Governor of the Commonwealth of Pennsylvania, the remaining allegations in this paragraph are conclusions of law to which no answer is required.

9. Defendants are without knowledge as to the truth or falsity of this allegation and demands strict proof at trial.

10. This paragraph states a conclusion of law to which no answer is required.

11. Denied.

12. This paragraph states a conclusion of law to which no answer is required.

13. This paragraph states a conclusion of law to which no answer is required.

14. To the extent that this paragraph contains factual allegations, they are denied; to the extent that it contains conclusions of law, no answer is required.

15. Denied, strict proof thereof is demanded at trial.

16. Denied, strict proof thereof is demanded at trial.

17. Admitted.

18. Denied, strict proof thereof is demanded at trial.

19. Denied, strict proof thereof is demanded at trial.

20. Defendants are without knowledge as to the truth or falsity of this allegation and demands strict proof at trial.

21. Defendants are without knowledge as to the truth or falsity of this allegation and demands strict proof at trial.

22. Defendants are without knowledge as to the truth or falsity of this allegation and demands strict proof at trial.

23. This paragraph states a conclusion of law to which no answer is required.

24. This paragraph states a conclusion of law to which no answer is required.

25. This paragraph states a conclusion of law to which no answer is required.

26. To the extent that factual allegations are contained in this paragraph, defendants are without knowledge as to the truth of these allegations and demand strict proof thereof at trial; to the extent that this paragraph contains conclusions of law, no answer is required.

AFFIRMATIVE DEFENSES

First Affirmative Defense

This Court lacks jurisdiction over the parties and subject matter of this lawsuit.

Second Affirmative Defense

This Complaint fails to state a claim upon which relief can be granted.

Third Affirmative Defense

Defendants have not participated in any conspiracy.

Fourth Affirmative Defense

Defendants are immune from suit.

Fifth Affirmative Defense

The Complaint fails to allege direct involvement or actual participation by defendants in the alleged constitutional violations against plaintiff.

Sixth Affirmative Defense

Defendants assert each and every defense available under the Civil Rights Act.

WHEREFORE, defendants pray this Honorable Court to dismiss plaintiff's Complaint with prejudice.

Maria Parisi Vickers
Assistant Attorney General
Michael von Moschzisker
Deputy Attorney General
Eastern Regional Director
Robert P. Kane
Attorney General

Department of Justice
Rm. 206 State Office Building
Philadelphia, PA 19130
Tel. 215—238-6661

OPINION OF THE COURT OF APPEALS, MEMORANDUM AND ORDER OF THE DISTRICT COURT, INTERSTATE AGREEMENT ON DETAINERS AND UNIFORM CRIMINAL EXTRADITION ACT

[Note: The Memorandum and Order of the United States District Court for the Eastern District of Pennsylvania, filed October 26, 1977, appears as Appendix B in the Petition for Writ of Certiorari, p. 14a.]

[Note: The Opinion of the United States Court of Appeals for the Third Circuit, filed February 9, 1979, appears as Appendix A in the Petition for Writ of Certiorari, p. 1a.]